

SERVICE DATE – OCTOBER 11, 2018

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 34797 (Sub-No. 1)

NEW ENGLAND TRANSRAIL, LLC, d/b/a WILMINGTON & WOBURN TERMINAL  
RAILWAY—CONSTRUCTION, ACQUISITION, AND OPERATION EXEMPTION—IN  
WILMINGTON AND WOBURN, MASS.

Decided: October 10, 2018

On June 24, 2016, New England Transrail, LLC (NET), filed a petition seeking an exemption under 49 U.S.C. § 10502 from the prior approval requirements of 49 U.S.C. § 10901 to acquire 5,727 feet of existing track, construct or rehabilitate 10,838 feet of track, and operate as a rail carrier over the combined 16,565 feet of track located in Wilmington and Woburn, Mass. The Board instituted a proceeding on September 20, 2016, and the Board’s Office of Environmental Analysis issued a Notice of Availability of Final Scope of Study for the Environmental Impact Statement on November 2, 2017.

By petition filed July 13, 2018, NET requests that the Board substitute Wilmington Woburn Intermodal, LLC (WWI), for NET as the petitioner seeking the construction, acquisition, and operation exemption here. In support of the request, NET states that it has obtained new financing from a real estate development company, GFI Partners (GFI), and that NET and GFI have established a new entity, WWI, that would “own and operate the facilities that were to be constructed and acquired by NET.” (NET Pet. 2, July 13, 2018.) WWI would be jointly owned by NET and Eames Street Member, LLC (Eames), an entity established by GFI, with NET and Eames each owning 50% of WWI. (*Id.*) The Town of Wilmington objected to the petition in a July 27, 2018 reply.

According to the cover letter accompanying the petition, NET’s attorney, John D. Heffner, filed the petition “[o]n behalf of New England Transrail, LLC.” WWI did not join the petition, and there is no indication that Mr. Heffner also represents WWI in this matter. Because WWI has not consented to or joined NET’s petition to substitute WWI as the petitioner in this case, NET’s petition cannot be granted. The petition will be denied without prejudice to the filing of an appropriate request to substitute.

It is ordered:

1. NET's July 13, 2018 petition is denied without prejudice.
2. This decision is effective on the date of service.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.